

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. Nos. **06-2922 & 06-2992** (Cons.)

IN RE: MICHAEL EVANS

Present: BARRY, SMITH AND NYGAARD, CIRCUIT JUDGES

Submitted is Petitioner's petition for writ of habeas corpus, which was docketed in the United States District Court for the Western District at 00-cv-00664 and was transferred by the District Court to be treated as an application under 28 U.S.C. § 2244 to file a second or successive petition under 28 U.S.C. §2254;

in the above-captioned case.

Respectfully,

Clerk

MMW/JJT/je/clw

O R D E R

The foregoing application to file a second petition pursuant to 28 U.S.C. § 2254 is denied. To the extent that Petitioner's proposed claims were raised in his previous habeas petition, those claims are dismissed. See 28 U.S.C. § 2244(b)(1). Petitioner has not shown that any proposed claim in his application rests on a new rule of constitutional law. See 28 U.S.C. § 2244(b)(2)(A). Petitioner has likewise failed to demonstrate the existence of a factual predicate for his claims which could not have been discovered previously through the exercise of due diligence, as required by 28 U.S.C. § 2244(b)(2)(B)(i). Consequently, Petitioner has not made the prima facie showing required for authorization to file a second or successive habeas corpus petition. See 28 U.S.C. § 2244(b)(3)(C).

By the Court,

/s/ Richard L. Nygaard
Circuit Judge

Dated: July 19, 2006
CLW/cc: Mr. Michael Evans